

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

DONTAY LAVARICE REESE,

Case No. 0:19-cv-01975-ECT-KMM

Plaintiff,

v.

SHERBURNE COUNTY DETENTION
CENTER; SHERBURNE COUNTY
SHERIFF JOEL BROTT, *in his official
capacity*; MEND MEDICAL SERVICES
INC., *in its official capacity*; JANELL
MEHLHOFF, *CNP, Medical Provider*;
BARB MEDICAL PROVIDER; JOHN DOE,
1-5 in their individual capacities; JANE
DOE, *1-5 in their individual capacities*;

ORDER

Defendants.

This matter is before the Court on Mr. Reese's Motion for Leave to File a First Amended Complaint (ECF No. 18). For the reasons that follow, Mr. Reese's motion to amend is granted and his letter request is granted.

Mr. Reese asserts that he should be allowed to amend his complaint pursuant to Rule 15(a)(2). Rule 15(a)(2) provides that "a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires." Though Rule 15(a)(2) does liberally allow for amendment of the pleadings, it is inapplicable in this case.

Instead, amendment at this stage is governed by Rule 15(a)(1), which allows a party to amend its pleading once as a matter of course within the earlier of: (A) 21 days after the pleading is served; or (B) if the pleading is one to which a responsive pleading is required, such as a complaint, within 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f). The original complaint in this matter has not yet been served. On March 4, 2020, waiver of service forms were filed for Defendants Janell Mehlhoff and MEND Medical Services, Inc. However, there is no indication that those waivers have been accepted and none is due until April 3, 2020. As a result, Mr. Reese still has an opportunity to amend his complaint once as a matter of course under Rule 15(a)(1). For this reason, the Court

will grant Mr. Reese's motion to amend the complaint and he may file a First Amended Complaint, but must do so within 30 days of this Order.

Mr. Reese is advised that if he chooses to file a First Amended Complaint, that document must be a standalone pleading that completely replaces the original complaint. The First Amended Complaint should not reference the original complaint or incorporate portions of it into the newer pleading. Mr. Reese must include all of the claims he wishes to bring in this case in the First Amended Complaint. Mr. Reese should also consult Rule 10 of the Federal Rules of Civil Procedure, which sets forth the requirements for the form of pleadings.

Accordingly, **IT IS HEREBY ORDERED THAT:**

1. The motion to amend (**ECF No. 18**) is **GRANTED** as set forth in this Order. Mr. Reese may file a First Amended Complaint within 30 days of the date of this Order;

Date: March 30, 2020

s/Katherine Menendez
Katherine Menendez
United States Magistrate Judge